



REALIZING JUSTICE

Defender Caseload Report
Fiscal Year 2006



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Commonwealth of Kentucky Department of Public Advocacy FY 2006 Annual Caseload Report

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COMMONWEALTH OF KENTUCKY

DEPARTMENT OF PUBLIC ADVOCACY

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Governor Fletcher, members of the General Assembly, and citizens of Kentucky:

Please allow me to present the FY 2006 Annual Report for the Kentucky Department of Public Advocacy (DPA). DPA represents poor Kentuckians who otherwise cannot afford an attorney in matters involving the potential loss of liberty. It is the responsibility of the judiciary to appoint a public defender prior to DPA involvement.

In its 34 years, the Department of Public Advocacy has grown from a handful of attorneys to a large, professional law firm with the largest number of attorneys practicing in the state. Each year, the National Law Journal ranks the largest private law firms in the United States according to the number of full-time attorneys. If the Kentucky Department of Public Advocacy were eligible for this ranking, DPA would rank in the largest 200 firms in the United States. Kentucky and the current administration can be proud of the DPA growth into a full-time, statewide professional law firm representing over 140,000 cases per year.

The information contained in the report is a numeric representation of many personal stories of justice and public safety. The DPA mission statement addresses DPA's commitment to "high quality services" as well as the "improvement of the criminal justice system". The agency works from the premise that our greatest contribution to the justice system is our high quality and individualized representation of clients. This service as a whole is a sum total of the pieces. Public safety is improved through the diligent work of law enforcement as well as the vigilant protection of individual liberties in court.

The Department of Public Advocacy remains committed to professional conduct in all matters. As the largest law firm in the Commonwealth, DPA remains a leader and educator in the criminal justice system. It is my pleasure to serve the agency and the Commonwealth as the Public Advocate.


Sincerely,

Ernie Lewis
Public Advocate
Commissioner, Department of Public Advocacy



DPA DEFENDER MISSION STATEMENT

Provide each client with high quality services through an effective delivery system, which ensures a defender staff dedicated to the interests of their clients and the improvement of the criminal justice system.



Summary of Department of Public Advocacy Case Measurement Purpose

The Department of Public Advocacy Annual Caseload Report is the primary reference document to measure the workload of Kentucky's public defenders. The agency has captured case data for more than two decades. The tools and depth of information gathered have evolved during this time period. The annual report, though, still serves the same basic purpose. It is an internal document for the purposes of management decisions and an external document as an open record of the work of the agency.

The Department is committed to information collection and publication for several purposes:

- To provide accountability to the Commonwealth of Kentucky for Department of Public Advocacy work
- To continue participation in the Kentucky Unified Criminal Justice Information System (UCJIS)
- To improve the Kentucky criminal justice system through data collection as a way to study system effectiveness

The Department of Public Advocacy is also committed to data integrity and consistency. The agency continually examines its data entry processes and data entry definitions to ensure reliability of the published report. In FY 2006, the Department purchased an upgraded software package for collecting information about its work. DPA is committed to the best technology and training for the purpose of data integrity.

EXECUTIVE SUMMARY

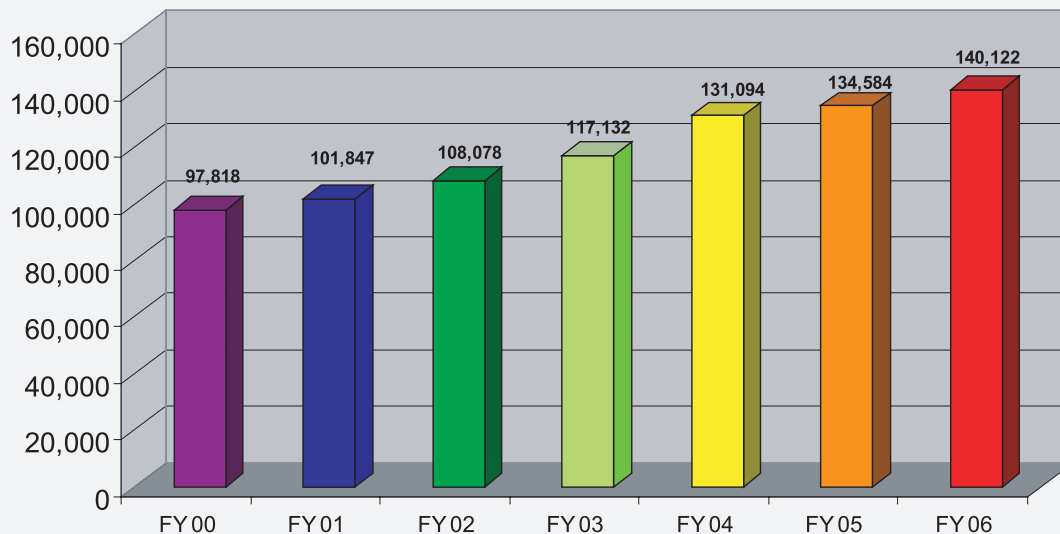
FY 2006 sees DPA total caseload on the rise for the 7th Consecutive Year

The Department of Public Advocacy (DPA) experienced total caseload growth for the 7th consecutive year in FY 2006. DPA is mandated under KRS Chapter 31 to administer the state-wide public defender system. The Department is appointed to represent individuals who have demonstrated their indigency status to the satisfaction of trial and appellate judges. Indigency is determined by judges utilizing factors outlined in KRS 31.120. DPA caseloads are affected by criminal justice trends, legislative enactments, and economic conditions. DPA is responsible for all clients who are appointed by a judge. As a result, DPA must continually adjust its defined resource pool to meet an undefined and growing need.

The following outlines some of the key trends in the Department of Public Advocacy in FY 2006

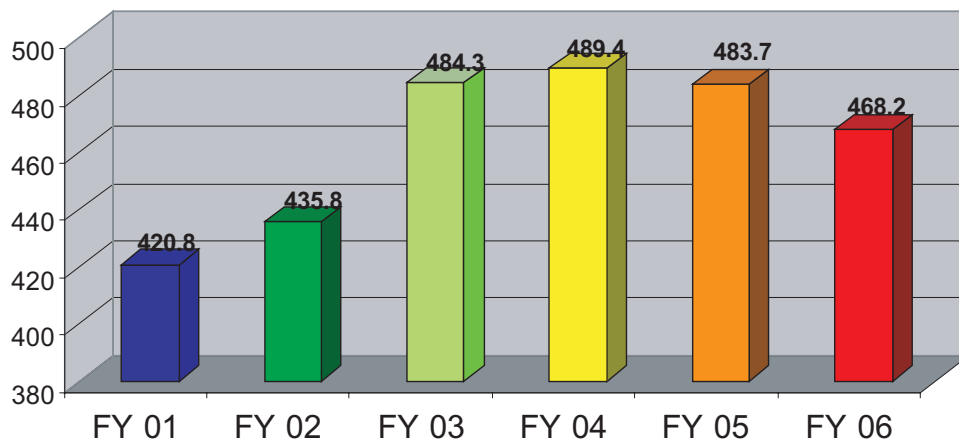
- Overall cases handled by DPA rose to 140,122, up from 134,584 in FY 2005. This represents a 4.3% increase in the total number of cases handled by the agency from the previous year. It continues the trend that has prevailed since FY 2000.

Total DPA Caseload



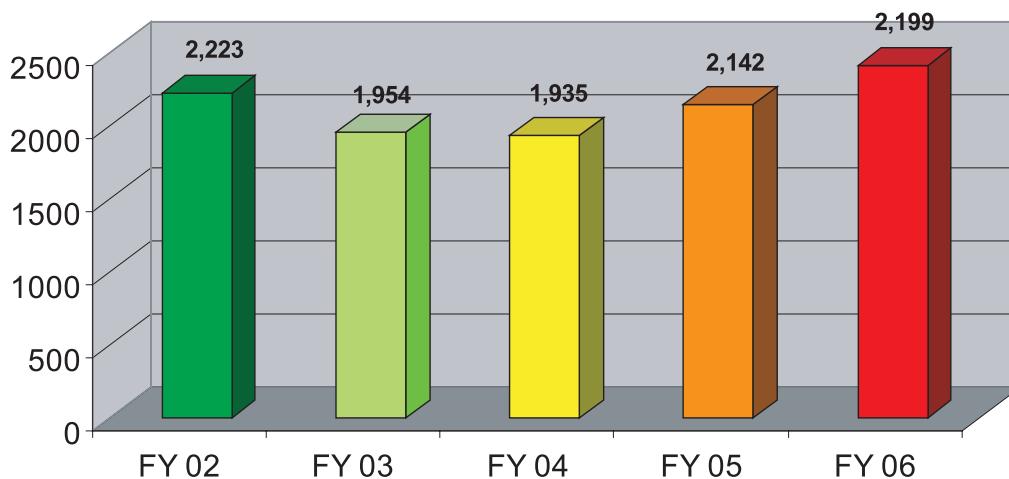
- The Trial Division new cases open per attorney dropped to 468.2 in FY 2006 from 483.7 in FY 2005. The drop is attributable largely to the addition of 21 staff attorneys in FY 2006 as authorized by the 2005 Kentucky General Assembly to help relieve a burgeoning workload.

Trial Cases per DPA Attorney



- The Post Trial Division opened 2,199 cases in FY 2006, up from 2,142 in FY 2005. This represents a 2.7% increase in the number of cases handled by the Post Trial Division of DPA.

Post Trial Total Case Load



- The FY 2006 Department of Public Advocacy cost-per-case was \$250.64. The funding per capita was \$8.42.

OVERVIEW OF EXPENDITURES

FY 2006

(July 1, 2005 - June 30, 2006)

Overview of Expenditures and Cost Per Case

The Department of Public Advocacy (DPA) is an independent state agency within the Kentucky Cabinet for Justice and Public Safety. DPA has a unique position in the Cabinet because of its role within the criminal justice system. In order to protect its independence, the Department of Public Advocacy operates under a Memorandum of Agreement with the Cabinet (see KRS 31.010). This MOA allows DPA professional independence and attaches DPA to the Cabinet for administrative purposes only.

The Department of Public Advocacy is funded primarily by the Kentucky General Fund. In FY 2006, the legislature allocated DPA \$25,585,500 in general funds. In addition to general funds, the Kentucky DPA derives revenue from three other sources. By statute, the Department of Public Advocacy receives \$62.50 for each DUI conviction, 3.5% of court costs (capped at \$1.75 million), and partial fees. (Partial fees refer to costs assigned to indigent defendants represented by DPA when it is determined that the client can pay a minimal fee while still not being able to afford a private attorney.) Because of the unpredictability of revenue funds, the funding and expenditures for the Department of Public Advocacy does not always equal a zero balance at the end of a given fiscal year. FY 2006 was no exception to this phenomenon. In 2006, DPA revenue went down because court costs declined.

The Department of Public Advocacy also has a unique relationship with several offices. Jefferson County and Fayette County have non-profit entities operating as the public defender provider for those counties. These two offices operate within the statewide public defender system administered by DPA. The Kentucky DPA supplements their budgets with two sources of funding. Each of these offices have contracts with the DPA where DPA sends the office an allocated portion of DPA general funds on an annual basis. In addition to the general funds, DPA serves as the administrative agent to recover and distribute partial fees earned by these offices. Both of these areas show as expenditures in the DPA annual budget. Finally, each of the offices receive funding from their county governments.

The following section on FY 2006 Department of Public Advocacy concerns selected expenditures from the DPA budget. As a state agency, the DPA annual financial statement is included and reviewed by the Consolidated Annual Financial Report (CAFA).

Overview of Expenditures & Cost Per Case

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	<u>Expenditure</u>	<u>Cases</u>	<u>Cost per Case</u>
Trial Division:			
Full-time DPA Offices (Expenditures & Cost Per Case):	\$20,620,004.00	97,892	\$210.64
Capital Trial Branch:	\$670,148.00	14	\$47,867.71
Louisville-Metro ¹ :	\$5,404,226.00	32,049	\$168.62
Fayette ¹ :	\$1,077,509.00	7,968	\$135.23
Total for Trial Division*	\$27,771,887.00	137,923	\$201.36

* Includes administrative costs for Trial Division Director.

Post Trial Division:

Appeals:	\$1,857,787.00	443	\$4,193.65
Juvenile Post Disposition Branch:	\$890,869.00	1,312	\$679.02
Post Conviction:	\$2,150,597.00	444	\$4,843.69
Total for Post Trial Division*	\$5,078,959.00	2,199	\$2,309.67

* Includes administrative costs for Post Trial Division Director.

Grand Totals²

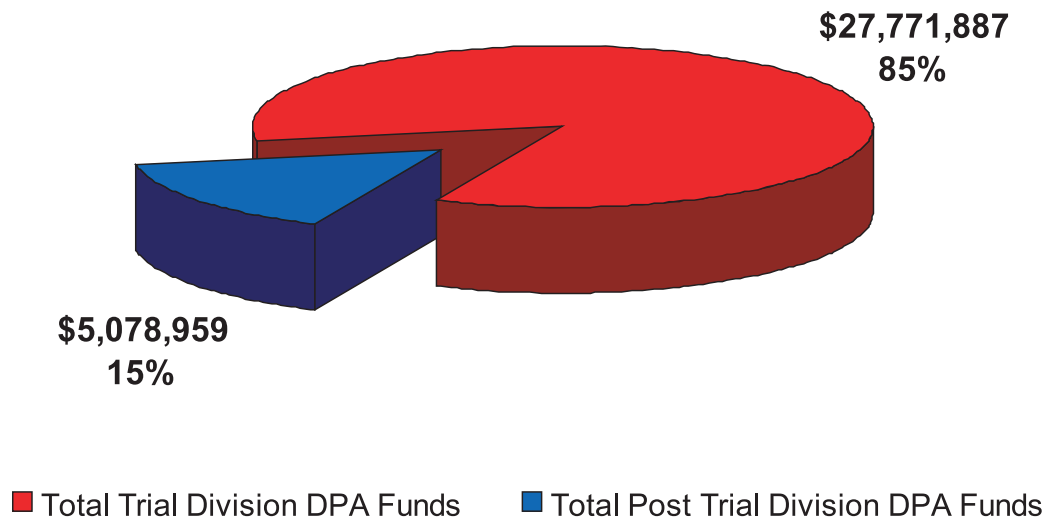
Costs:	\$35,119,753.00
Cases:	140,122
Costs Per Case:	\$250.64

¹ Includes local contributions from Louisville-Metro and Lexington-Fayette Co. These are budgeted numbers - not actual expenses.

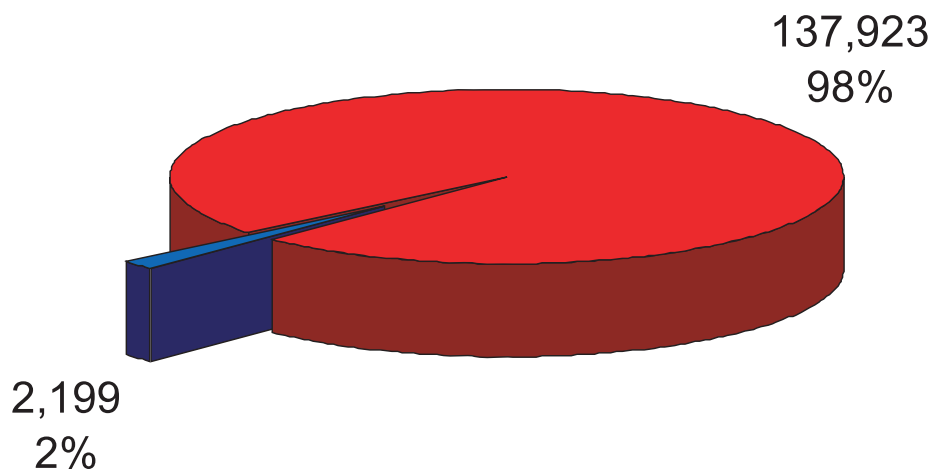
² Includes Administrative Operations costs from both the Law Operations Division and the Office of the Public Advocate.

Comparison of Caseload vs. Expenditures for Kentucky Department of Public Advocacy

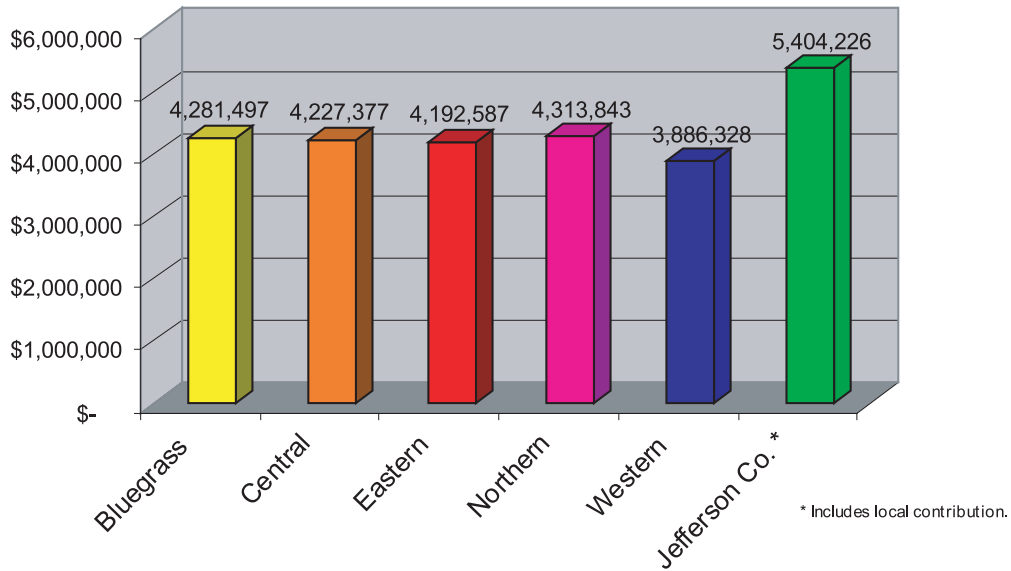
Kentucky DPA Expenditures by Division - FY 2006



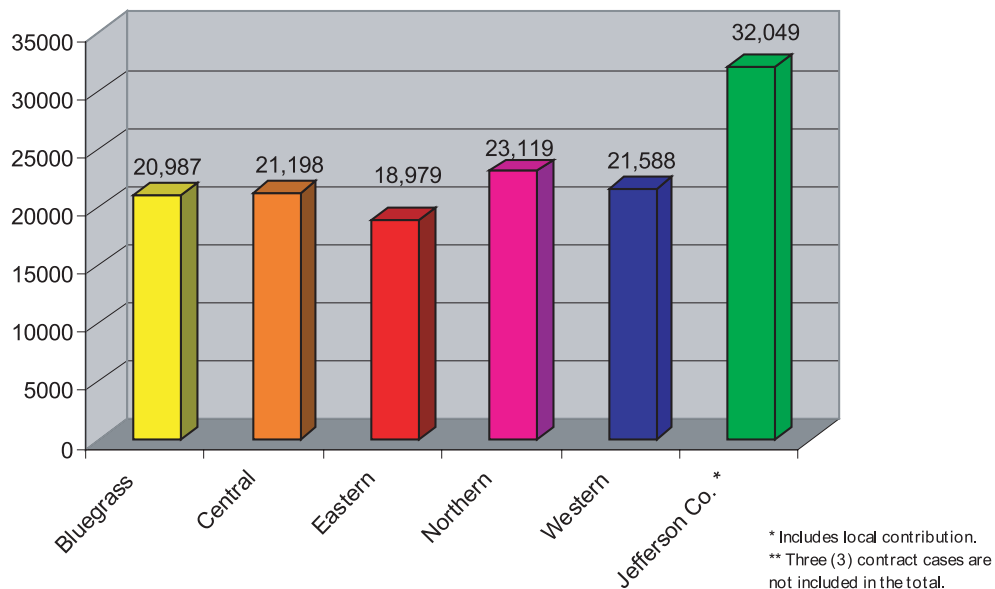
DPA Caseload by Division - FY 2006



DPA Trial Regions FY 2006 Total Cost Comparison



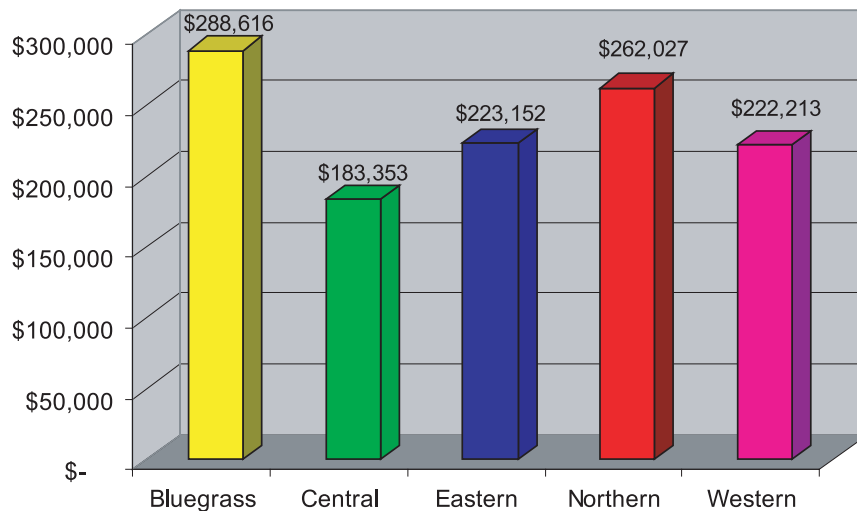
DPA Trial Regions FY 2006 Total Caseload Comparison



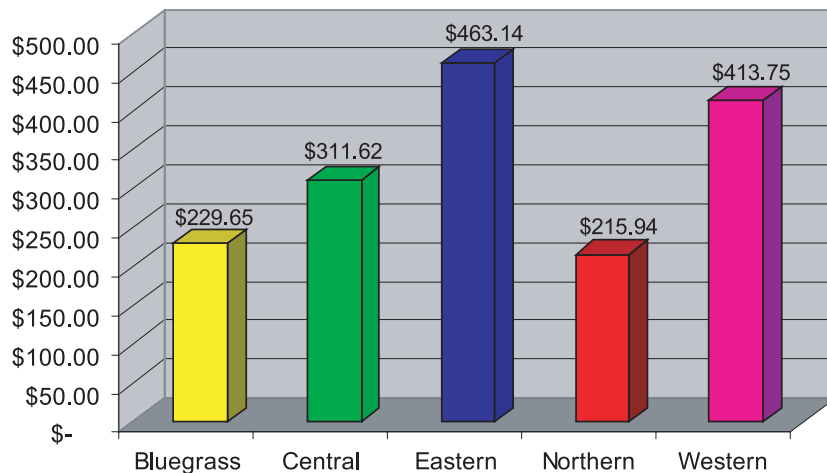
FY 2006 Conflict Case Costs for DPA Trial Division

The Trial Division typically spends a significant amount of money on conflict cases. Conflict representation occurs when there are multiple defendants involved in a specific incident. A single DPA office can only represent one of that set of defendants because of attorney ethical rules unless there is a waiver of the conflict. The other indigent clients from that same incident must either be represented by other DPA offices or by outside counsel. DPA has seen the number of conflict cases rise in recent years. The significance of a conflict case from a financial perspective is that it often costs more per case than a non-conflict DPA case.

**Conflict Case Expenditures per Trial Region
FY 2006**



**Cost per Conflict Case per Trial Region
FY 2006**





TRIAL DIVISION CASELOAD DATA

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FY 2006

(July 1, 2005 - June 30, 2006)

Overview of FY 2006 Trial Case Numbers

The case numbers for the Trial Division rose for the 7th straight year in FY 2006. The Trial Division handled 137,923 cases in FY 2006, the highest in DPA's history. This is an increase of 3.9% over FY 2005. The Trial Division also operated 30 field offices for standard trial work and one (1) field office for Capital work. The Trial Division operated full-time offices in all of Kentucky's 120 counties. The addition of the Glasgow and Boyd County Offices realized the DPA goal of completing the full-time statewide public defender system. A number of studies have demonstrated that full-time defense offices provide higher quality legal service than where indigent defense is provided by part-time contractors.

The DPA case definition has been in existence for more than 10 years. The general definition of a case is as follows: "a case consists of a single accused, having either under the same or different case number(s), one or more charges, allegations, or proceedings arising out of one event or a group of related contemporaneous events." In most scenarios, a case counted by DPA equates on a one-to-one basis with a case number provided by the Administrative Office of the Courts (AOC). In certain situations such as Persistent Felony Offenders, Probation Revocation Hearings and other events in addition to the core case, DPA will use an AOC case number more than once. These re-used numbers amount to less than 10% of the DPA total trial caseload in FY 2006. Additionally, there are situations where DPA will count multiple AOC numbers as a single DPA case. In situations such as bad checks where there may be multiple AOC numbers arising out of the contemporaneous event, DPA staff are instructed to only count the multiple AOC numbers as a single DPA case based on the event. There are no statistics for the percentage of the caseload for this latter phenomenon.

Statement of Definitions: Trial Cases and Case Counting Methods

Total cases listed for a branch, division, or DPA as a whole are only those cases that were opened during the fiscal year being reported. The totals do not include the numerous, ongoing cases handled by DPA that were opened in previous fiscal years. This exclusion is particularly important in capital cases and in all post trial cases, which typically remain open for several years and require that continuing new work be done on those cases.

DPA has extensive protocols for the application of case definitions and case counting methods that take into account the unique differences among circuit and district court cases, juvenile and adult cases, etc. These definitions were developed in concert with staff input, KRS requirements, and commonly accepted statistical methodology. Consistency of application is insured through the use of the agency's Case Tracking System (CTS), an in-house database.

Throughout this document, the following definitions and methods of case counting are used consistently.

Trial Division Cases

A **case** consists of a single accused, having either under the same or different case number(s), one or more charges, allegations, or proceedings arising out of one event or a group of related contemporaneous events. These charges must be brought contemporaneously against the defendant, stemming from the same course of conduct, and involving proof of the same facts. Some cases assigned to individual attorneys are conducted, either wholly or in part, outside the confines of state courts (e.g., parole revocation hearings, KRS 31.110 line-ups, interrogations, other pre-charge events, witness representations); however, to be counted as a "case" for Trial Division statistical purposes, a formal appointment by a court with appropriate jurisdiction is required. An individual attorney's actions do not constitute a "case" (for agency statistical purposes) if the activity is brief, strictly routine (e.g., standing in for arraignment purposes at a regularly scheduled motion hour, responding to inmate correspondence), and performed as a courtesy to the court.

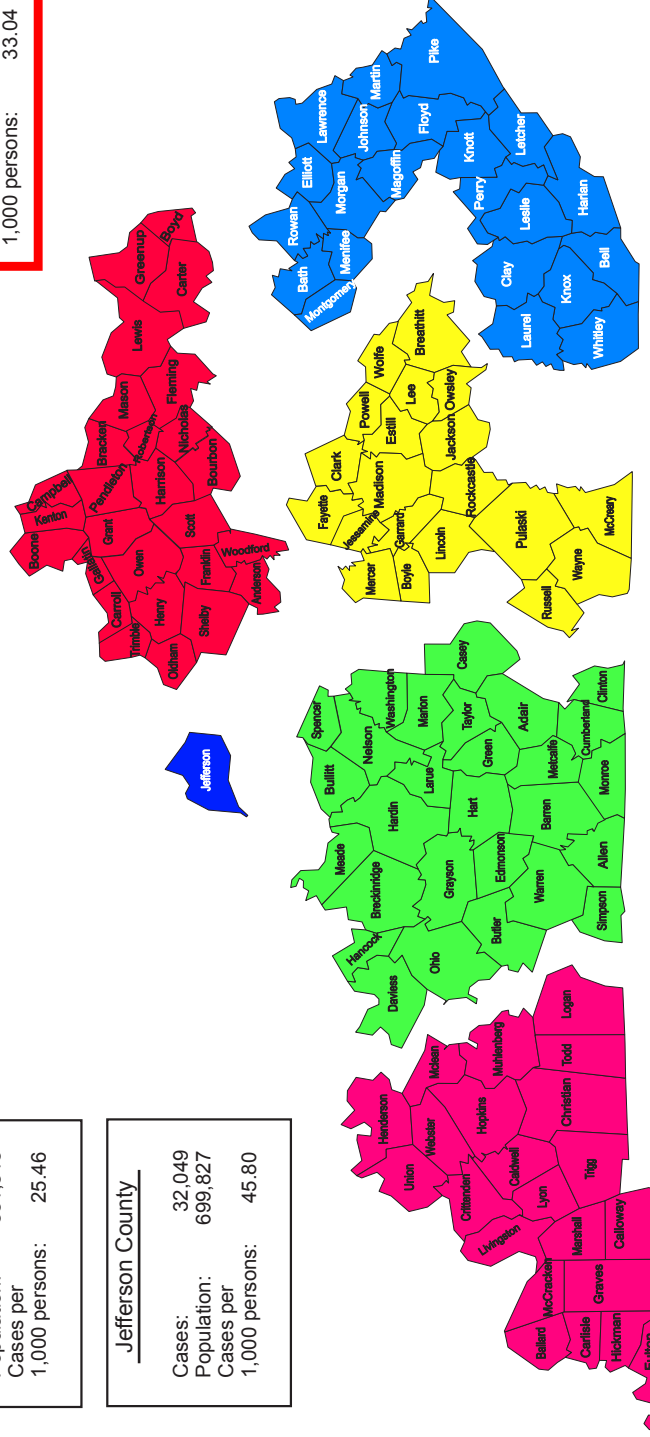
In addition to adhering to the general agency definition of a "case," to be counted as a **capital eligible case**, an accused must be charged with at least one count of kidnapping or murder, with a qualifying KRS aggravator identified. The number of attorneys assigned to the case has no bearing on the agency's counting of capital cases, and, because cases must be entered and categorized upon assignment, the agency does not require prior receipt of notice from the Commonwealth's Attorney that the death penalty will be sought.

FY 2006 Trial Division Case and Population Totals* with Average Number of Cases per 1,000 Population**: Case Rate Grows for the 7th Straight Year

Northern Region	
Cases:	22,449
Population:	881,818
Cases per 1,000 persons:	25.46

Jefferson County	
Cases:	32,049
Population:	699,827
Cases per 1,000 persons:	45.80

Trial Division Totals	
Cases:	137,909
Population:	4,173,405
Cases per 1,000 persons:	33.04



Western Region	
Cases:	21,582
Population:	520,299
Cases per 1,000 persons:	41.48

Central Region	
Cases:	21,193
Population:	790,766
Cases per 1,000 persons:	26.80

Bluegrass Region	
Cases:	20,985
Population:	724,246
Cases per 1,000 persons:	28.97

Eastern Region	
Cases:	19,651
Population:	556,449
Cases per 1,000 persons:	35.32

* Does not include Capital Trial Branch.

** Source: U.S. Census Bureau, 2005 Population Estimates

30 FIELD OFFICES - FY 2006 ALPHABETICAL LISTING

OFFICE	ATTYS*	FY 05 Cases: 4th Quarter	FY05 Conflict Cases	Conflict % of Total Cases	% change in total caseload**	FY 05 AVG cases/atty	FY 06 Cases: 4th Quarter	FY06 Conflict Cases	Conflict % of Total Cases	% change in total caseload**	AVG cases/atty
Bel County	5	2,246	45	2.00%	4.13%	440.2	2,595	32	1.23%	15.54%	512.6
Boone County	8	4,126	147	3.56%	32.93%	568.4	4,694	188	4.01%	13.77%	563.3
Bowling Green	9	4,059	171	4.21%	-0.76%	432.0	4,030	128	3.18%	-0.71%	433.6
Boyd County ³	7	1,182	37	3.13%	17.61%	572.5	1,863	67	3.60%	57.61%	256.6
Bullitt County	5	2,267	83	3.66%	1.93%	436.8	2,776	118	4.25%	22.45%	531.6
Capital Trial Br. ¹	7	11	0	0.00%	-31.25%	1.6	14	0	0.00%	27.27%	2.0
Columbia	7	3,552	45	1.27%	-4.13%	501.0	2,888	44	1.52%	-18.69%	406.3
Covington	13	6,341	246	3.88%	17.56%	507.9	6,723	305	4.54%	6.02%	493.7
Danville	7	3,173	108	3.40%	5.59%	510.8	3,553	102	2.87%	11.98%	493.0
Elizabethtown	12	5,842	41	0.70%	-7.83%	527.4	5,527	47	0.85%	-5.39%	456.7
Frankfort	6	2,578	31	1.20%	2.38%	509.4	2,895	47	1.62%	12.30%	474.7
Glasgow ²	5	0	0	0	0	0	1,150	15	1.30%	N/A	227.0
Harrison	5	2,259	36	1.59%	18.21%	555.8	2,038	120	5.89%	-9.78%	383.6
Hazard	9	4,252	63	1.48%	-23.57%	465.4	4,317	111	2.57%	1.53%	467.3
Henderson	7	3,191	63	1.97%	-7.69%	446.9	3,046	72	2.36%	-4.54%	424.9
Hopkinsville	11	6,051	133	2.20%	4.87%	538.0	6,405	225	3.51%	5.85%	561.8
LaGrange	5	2,165	116	5.36%	8.79%	512.3	2,068	45	2.18%	-4.48%	404.6
Lexington	18	7,064	0	0.00%	-5.02%	392.4	7,968	0	0.00%	12.80%	442.7
London	9	4,536	393	8.66%	9.91%	517.9	4,600	210	4.57%	1.41%	487.8
Louisville	53	30,009	0	0.00%	6.16%	566.2	32,049	0	0.00%	6.80%	604.7
Madisonville	6	2,481	80	3.22%	0.57%	480.2	2,623	42	1.60%	5.72%	430.2
Maysville	5	2,392	153	6.40%	4.05%	447.8	2,168	153	7.06%	-9.36%	403.0
Morehead	8	4,822	128	2.65%	-10.34%	469.4	3,945	82	2.08%	-18.19%	482.9
Murray	7	3,650	196	5.37%	-2.87%	493.4	3,846	146	3.80%	5.37%	528.6
Owensboro	10	4,623	59	1.28%	9.58%	507.1	4,822	77	1.60%	4.30%	474.5
Paducah	12	5,265	219	4.16%	6.88%	504.6	5,662	123	2.17%	7.54%	461.6
Paintsville	4	1,659	54	3.25%	-0.36%	401.3	1,532	67	4.37%	-7.66%	366.3
Pikeville	6	2,168	60	2.77%	-25.40%	351.3	2,662	58	2.18%	22.79%	434.0
Richmond	8	4,160	167	4.01%	25.30%	570.4	4,041	181	4.48%	-2.86%	482.5
Somerset	8	3,588	231	6.44%	5.59%	419.6	2,871	186	6.48%	-19.98%	335.6
Stanton	6	2,730	178	6.52%	-0.55%	425.3	2,552	103	4.04%	-6.52%	408.2
TOTAL	288	132,442	3,283	2.48%	2.54%	483.7	137,923	3,094	2.24%	4.14%	468.2

*Authorized compliment as of 07/01/05. May differ from actual staffing.

**% increase in total caseload is the percentage rise/drop of total cases from the previous year.

1. The Capital Trial Branch is included to recognize the services of its attorneys and staff, but its cases are excluded from "avg. cases/atty" comparison analysis due to their length and complexity.

2. The Glasgow Office officially opened October 1, 2005. Data previous to that time is not available.

3. The Callettsburg (Boyd) Office numbers only include Carter, Greenup, and Lewis counties for the last quarter of FY 2006 as this office changed counties served on April 1, 2006.

30 FIELD OFFICES - FY 2006 AVERAGE CASELOAD LISTING

OFFICE	ATTYS*	FY 05 Cases: 4th Quarter	FY05 Conflict Cases	Conflict % of Total Cases	% change in total caseload**	FY 05 AVG cases/atty	FY 06 Cases: 4th Quarter	FY06 Conflict Cases	Conflict % of Total Cases	% change in total caseload**	AVG cases/atty
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Covington	13	6,341	246	3.88%	17.56%	507.9	6,723	305	4.54%	6.02%	493.7
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Paintsville	4	1,659	54	3.25%	-0.36%	401.3	1,532	67	4.37%	-7.66%	366.3
Somerset	8	3,588	231	6.44%	5.59%	419.6	2,871	186	6.48%	-19.98%	335.6
Boyd County ³	7	1,182	37	3.13%	17.61%	572.5	1,863	67	3.60%	57.61%	256.6
Glasgow ²	5	0	0	0	0	0	1,150	15	1.30%	N/A	227.0
Capital Trial Br. ¹	7	11	0	0.00%	-31.25%	1.6	14	0	0.00%	27.27%	2.0
TOTAL	288	132,442	3,283	2.48%	2.54%	483.7	137,923	3,094	2.24%	4.14%	468.2

*Authorized compliment as of 07/01/05. May differ from actual staffing.

**% increase in total caseload is the percentage rise/drop of total cases from the previous year.

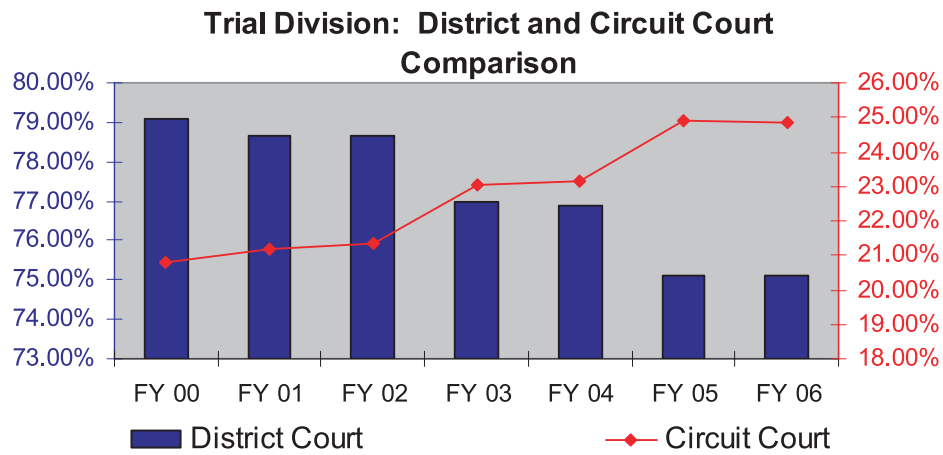
1. The Capital Trial Branch is included to recognize the services of its attorneys and staff, but its cases are excluded from "avg. cases/atty" comparison analysis due to their length and complexity.

2. The Glasgow Office officially opened October 1, 2005. Data previous to that time is not available.

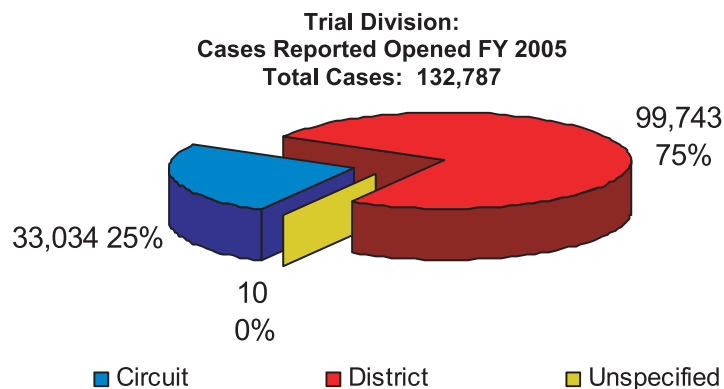
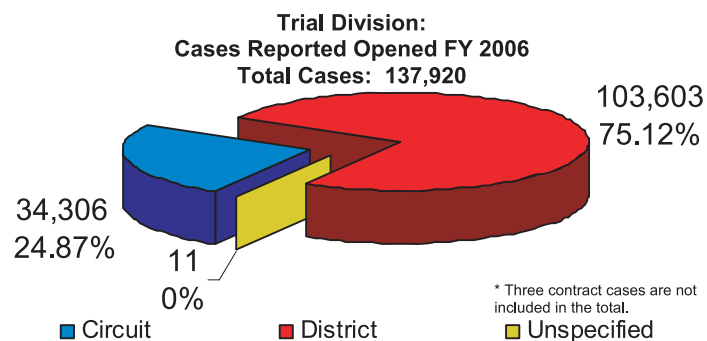
3. The Catlettsburg (Boyd) Office numbers only include Carter, Greenup, and Lewis counties for the last quarter of FY 2006 as this office changed counties served on April 1, 2006.

DPA Trial Division Cases Reported Opened in FY 2006

- Of the trial cases 24.87% were Circuit Court cases, 75.12% were District Court cases
- In FY 06, the trend is continuing toward a greater percentage of DPA trial cases being opened in Circuit Court each year



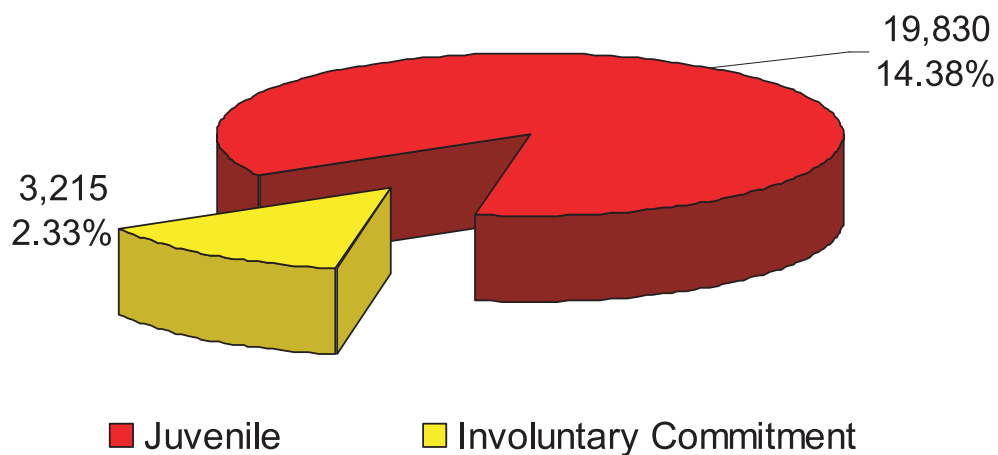
- The actual number of cases opened in District Court has increased during this same period. It has simply increased at a slower rate than the Circuit Court caseload



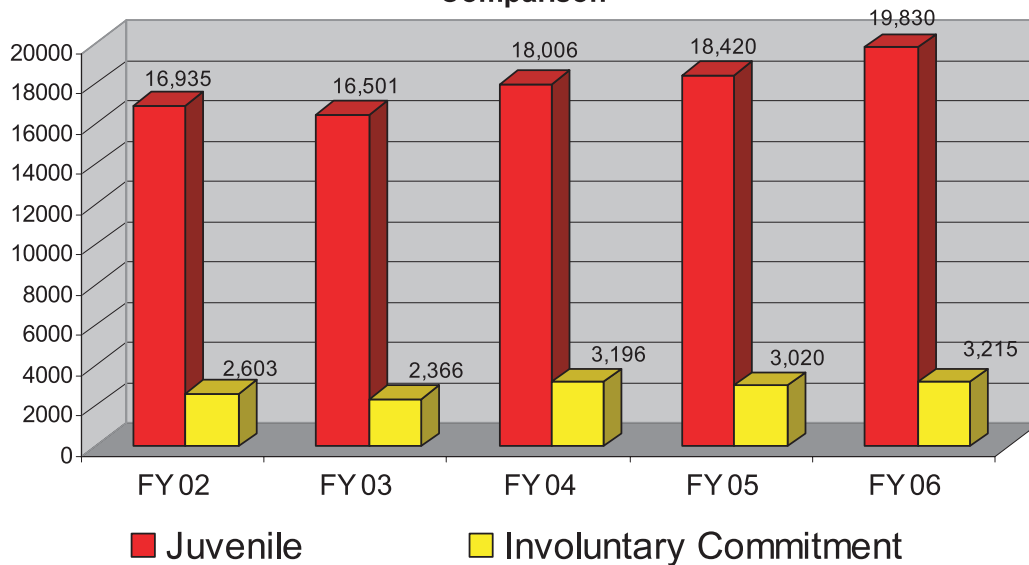
DPA Trial Division Juvenile and Involuntary Commitment Cases Reported Opened FY 2006

17

Trial Division: Juvenile & Involuntary Commitment Cases FY 06 Including Percentage of Total Cases



Juvenile and Involuntary Commitment Cases Fiscal Year Comparison



FY 2006

Case Openings by Court Type Broken Down by County

County	Circuit	Circuit %	District	District %	Other	Other %	TOTAL
ADAIR	144	34.20%	277	65.80%		0.00%	421
ALLEN	104	42.80%	139	57.20%		0.00%	243
ANDERSON	112	30.19%	259	69.81%		0.00%	371
BALLARD	100	38.02%	163	61.98%		0.00%	263
BARREN	353	48.22%	379	51.78%		0.00%	732
BATH	71	18.39%	315	81.61%		0.00%	386
BELL	441	26.78%	1206	73.22%		0.00%	1,647
BOONE	827	28.42%	2083	71.58%		0.00%	2,910
BOURBON	118	14.68%	686	85.32%		0.00%	804
BOYD	323	26.32%	904	73.68%		0.00%	1,227
BOYLE	136	15.56%	738	84.44%		0.00%	874
BRACKEN	54	23.18%	179	76.82%		0.00%	233
BREATHITT	159	28.55%	398	71.45%		0.00%	557
BRECKINRIDGE	144	40.22%	214	59.78%		0.00%	358
BULLITT	367	22.24%	1283	77.76%		0.00%	1,650
BUTLER	87	46.52%	100	53.48%		0.00%	187
CALDWELL	100	31.45%	218	68.55%		0.00%	318
CALLOWAY	332	33.84%	649	66.16%		0.00%	981
CAMPBELL	903	37.34%	1515	62.66%		0.00%	2,418
CARLISLE	41	29.29%	99	70.71%		0.00%	140
CARROLL	177	29.80%	417	70.20%		0.00%	594
CARTER	58	9.37%	561	90.63%		0.00%	619
CASEY	170	45.70%	202	54.30%		0.00%	372
CHRISTIAN	788	16.98%	3847	82.91%	5	0.00%	4,640
CLARK	387	35.25%	711	64.75%		0.00%	1,098
CLAY	88	12.70%	605	87.30%		0.00%	693
CLINTON	103	27.54%	271	72.46%		0.00%	374
CRITTENDEN	68	28.57%	170	71.43%		0.00%	238
CUMBERLAND	66	27.62%	173	72.38%		0.00%	239
DAVIESS	914	24.50%	2816	75.48%	1	0.00%	3,731
EDMONSON	61	55.96%	48	44.04%		0.00%	109
ELLIOTT	29	14.80%	167	85.20%		0.00%	196
ESTILL	130	23.72%	418	76.28%		0.00%	548
FAYETTE	3572	44.83%	4396	55.17%		0.00%	7,968
FLEMING	94	18.99%	401	81.01%		0.00%	495

County	Circuit	Circuit %	District	District %	Other	Other %	TOTAL
FLOYD	196	16.27%	1009	83.73%		0.00%	1,205
FRANKLIN	486	38.27%	784	61.73%		0.00%	1,270
FULTON	105	32.21%	221	67.79%		0.00%	326
GALLATIN	79	29.81%	186	70.19%		0.00%	265
GARRARD	69	18.45%	305	81.55%		0.00%	374
GRANT	152	23.57%	493	76.43%		0.00%	645
GRAVES	337	17.34%	1606	82.66%		0.00%	1,943
GRAYSON	254	44.25%	320	55.75%		0.00%	574
GREEN	86	42.57%	116	57.43%		0.00%	202
GREENUP	149	23.58%	483	76.42%		0.00%	632
HANCOCK	47	27.33%	125	72.67%		0.00%	172
HARDIN	894	25.42%	2623	74.58%		0.00%	3,517
HARLAN	226	23.81%	723	76.19%		0.00%	949
HARRISON	68	11.43%	527	88.57%		0.00%	595
HART	153	27.82%	397	72.18%		0.00%	550
HENDERSON	699	36.07%	1239	63.93%		0.00%	1,938
HENRY	78	20.37%	305	79.63%		0.00%	383
HICKMAN	33	22.30%	115	77.70%		0.00%	148
HOPKINS	513	27.90%	1326	72.10%		0.00%	1,839
JACKSON	82	28.67%	204	71.33%		0.00%	286
JEFFERSON	4269	13.32%	27780	86.68%		0.00%	32,049
JESSAMINE	216	18.31%	964	81.69%		0.00%	1,180
JOHNSON	163	27.86%	422	72.14%		0.00%	585
KENTON	1037	24.08%	3270	75.92%		0.00%	4,307
KNOTT	66	15.79%	352	84.21%		0.00%	418
KNOX	157	15.10%	883	84.90%		0.00%	1,040
LARUE	77	21.04%	288	78.69%	1	0.00%	366
LAUREL	407	24.77%	1236	75.23%		0.00%	1,643
LAWRENCE	48	15.84%	255	84.16%		0.00%	303
LEE	77	30.92%	172	69.08%		0.00%	249
LESLIE	24	8.22%	268	91.78%		0.00%	292
LETCHER	311	22.54%	1069	77.46%		0.00%	1,380
LEWIS	126	39.50%	193	60.50%		0.00%	319
LINCOLN	93	17.85%	427	81.96%	1	0.00%	521
LIVINGSTON	46	22.44%	159	77.56%		0.00%	205

County	Circuit	Circuit %	District	District %	Other	Other %	TOTAL
LOGAN	328	46.52%	377	53.48%		0.00%	705
LYON	81	38.76%	128	61.24%		0.00%	209
MCCRACKEN	1019	22.28%	3554	77.72%		0.00%	4,573
MCCREARY	171	37.67%	283	62.33%		0.00%	454
MCLEAN	58	36.25%	102	63.75%		0.00%	160
MADISON	591	27.55%	1554	72.45%		0.00%	2,145
MAGOFFIN	105	26.72%	288	73.28%		0.00%	393
MARION	165	42.20%	226	57.80%		0.00%	391
MARSHALL	295	31.75%	634	68.25%		0.00%	929
MARTIN	65	25.90%	186	74.10%		0.00%	251
MASON	253	21.57%	920	78.43%		0.00%	1,173
MEADE	141	27.22%	377	72.78%		0.00%	518
MENIFEE	80	35.40%	146	64.60%		0.00%	226
MERCER	109	18.05%	495	81.95%		0.00%	604
METCALFE	47	24.23%	147	75.77%		0.00%	194
MONROE	127	38.96%	199	61.04%		0.00%	326
MONTGOMERY	309	34.56%	585	65.44%		0.00%	894
MORGAN	77	19.85%	311	80.15%		0.00%	388
MUHLENBERG	213	34.08%	412	65.92%		0.00%	625
NELSON	413	44.41%	517	55.59%		0.00%	930
NICHOLAS	46	21.80%	165	78.20%		0.00%	211
OHIO	197	35.12%	364	64.88%		0.00%	561
OLDHAM	110	22.27%	384	77.73%		0.00%	494
OWEN	84	30.00%	196	70.00%		0.00%	280
OWSLEY	94	40.87%	136	59.13%		0.00%	230
PENDLETON	54	14.40%	321	85.60%		0.00%	375
PERRY	581	22.62%	1987	77.38%		0.00%	2,568
PIKE	284	19.49%	1173	80.51%		0.00%	1,457
POWELL	92	16.17%	477	83.83%		0.00%	569
PULASKI	508	38.43%	814	61.57%		0.00%	1,322
ROBERTSON	6	11.32%	47	88.68%		0.00%	53
ROCKCASTLE	192	37.35%	322	62.65%		0.00%	514
ROWAN	216	18.23%	969	81.77%		0.00%	1,185
RUSSELL	106	25.06%	317	74.94%		0.00%	423
SCOTT	207	23.10%	689	76.90%		0.00%	896

County	Circuit	Circuit %	District	District %	Other	Other %	TOTAL
SHELBY	285	28.16%	727	71.84%		0.00%	1,012
SIMPSON	178	44.28%	224	55.72%		0.00%	402
SPENCER	45	22.61%	154	77.39%		0.00%	199
TAYLOR	233	38.96%	365	61.04%		0.00%	598
TODD	180	57.88%	131	42.12%		0.00%	311
TRIGG	75	32.89%	153	67.11%		0.00%	228
TRIMBLE	45	25.14%	134	74.86%		0.00%	179
UNION	180	35.57%	326	64.43%		0.00%	506
WARREN	1394	45.07%	1697	54.87%	2	0.00%	3,093
WASHINGTON	87	46.03%	102	53.97%		0.00%	189
WAYNE	301	44.40%	377	55.60%		0.00%	678
WEBSTER	99	27.27%	263	72.45%	1	0.00%	363
WHITLEY	158	17.95%	722	82.05%		0.00%	880
WOLFE	70	17.81%	323	82.19%		0.00%	393
WOODFORD	108	30.08%	251	69.92%		0.00%	359
TOTAL	34,306	24.87%	103,603	75.12%	11	0.00%	137,920

* Three (3) contract cases are not included in this report.

POST TRIAL DIVISION CASELOAD DATA

FY 2006

(July 1, 2005 - June 30, 2006)

Post Trial Division Case Notes from FY 2006

The Post Trial Division handled 2,199 cases in FY 2006. This represented a 2.7% increase over FY 2005. The Post Trial Division is responsible for fulfilling DPA Chapter 31 obligations for all qualifying adults convicted of a felony offense and for all children and youth on post judgment review of status, public and youthful offender cases. There are three branches within the division—Appeals, Juvenile Post Disposition and Post Conviction. The Appeals Branch handles direct appeals from felony convictions and final judgments. These appeals are taken to the Kentucky Court of Appeals, the Kentucky Supreme Court and, where appropriate, into federal court and the U.S. Supreme Court for appellate review. Indigency determinations and the decision to appoint counsel are determined by the trial court and reviewed by the appellate courts. The Juvenile Post Disposition Branch represents children and youth who were found at the trial court level to be status, public or youthful offenders. The Post Conviction Branch represents adult felons on their Post Conviction cases. As there are over 21,000 incarcerated persons in Kentucky prisons and only 17 attorneys in the Post Conviction Branch, the agency is not able to provide counsel to all persons in prison in Kentucky on felony convictions in Post Conviction matters. FY 2006 placed significant demands on the division as two capital cases required extensive litigation.

The Post Conviction Branch includes a section devoted to the Kentucky Innocence Project. With its Kentucky Innocence Project (KIP), DPA partners with the Commonwealth's law and other professional schools to provide representation to those factually innocent prisoners who have strong colorable claims and evidence that can be presented in a court of law to win relief. Each year, KIP receives over 200 inquiries for representation. In FY 2006, KIP only accepted 15 cases for further investigation. Law, social work and criminal justice students are trained through the year by KIP staff and college faculty. KIP and the professional schools work together to investigate these cases, surfacing new evidence and preparing legal claims to win relief for deserving clients.

Additionally, the division stretched its limited resources to the greatest degree possible to provide some assistance to the 21,000 prisoners incarcerated in Kentucky's jails and prisons.

Statement of Definitions: Post Trial Cases and Case Counting Methods

Total cases listed for a branch, division, or DPA as a whole are only those cases that were opened during the fiscal year being reported. The totals do not include the numerous, ongoing cases handled by DPA that were opened in previous fiscal years. This exclusion is particularly important in capital cases and in all post trial cases, which typically remain open for several years and require that continuing new work be done on those cases. Throughout this document, the following definitions and methods of case counting are used consistently.

Post Trial Division Cases

The Post Trial Division has three branches, each of which has a different mission and function. The division has developed a common definition for a case. As with the Trial Division all cases are only counted during the year that the case is opened and multiple counts tried together are counted as a single case for appellate or post conviction purposes. Most post trial cases remain open and require work over several years. All of the cases handled by the Appeals Branch and Post Conviction Branch are felony cases involving prison sentences of from one year to life in prison without opportunity of parole, to the death penalty. The records on appellate and post conviction cases can vary from a one video tape record to a seventy video tape record. A very few courts still use written transcripts. Kentucky is unique in the nation in its reliance upon a video record, the review of which is much more time consuming for the lawyer for appellant who must review the entire pretrial and trial record to prepare an appeal or post conviction action, without opportunity to fast forward or speed read through a record. Across the division, a case is assigned and counted as a case at the following points in the process:

- a. When a direct appeal is received and the case is assigned to counsel to brief.
- b. When a post conviction appeal is received and the case is assigned to counsel to brief. These include appeals from RCR 11.42 denials, CR 60.02 denials, state habeas denials, conditional guilty pleas, probation revocations, denials of requests to withdraw guilty pleas, jail credit denials, sentence reduction denials, and Lewis hearing appeals.
- c. When a petition for habeas corpus is filed in the federal U.S. District Court.
- d. When a final brief is filed on a habeas case in the Sixth Circuit Court of Appeals.
- e. When a petition for writ of certiorari is granted and briefing is ordered.
- f. When a motion for discretionary review is granted and briefing is ordered.
- g. Original actions filed and extraordinary writs filed in a circuit court, court of appeals, supreme court, or federal court.

- h. Fact, duration or condition of confinement cases pursued on behalf of clients under eighteen years of age who are in the juvenile system. These include inter alia motions to terminate commitment, cases pursued as Section 1983 litigation, ARC hearings, YO sentencing hearings where JPDB lawyers do not enter the case until the sentencing stage as the attorneys for the child in circuit court, supervised placement revocation hearings.
- i. state habeas actions filed in circuit courts
- j. RCR 11.42 pleadings filed in circuit courts and juvenile courts
- k. CR 60.02 pleadings filed in circuit courts and juvenile courts
- l. Section 1983 litigation
- m. Clemency petitions on behalf of capital and non-capital clients
- n. Motions filed in post conviction to correct the sentence
- o. Motions filed to reopen cases pursuant to claims of factual innocence
- p. Other appellate and post conviction actions may be filed and if separate court cases will be counted in the year such litigation is filed.

Appeals Branch Caseload FY 2006

25

Cases Assigned

(all cases assigned for briefing, does not include assignments for review under KRS 31.110)

Court of Appeals

	1 st quarter	2 nd quarter	3 rd quarter	4 th quarter	Total
Total quarter	40	50	61	56	207

Supreme Court

	1 st quarter	2 nd quarter	3 rd quarter	4 th quarter	Total
Total quarter	30	28	39	24	121

Federal Habeas Cases

	1 st quarter	2 nd quarter	3 rd quarter	4 th quarter	Total
Fed. Dist. Ct	1	0	0	1	2
6 th Circuit	0	0	0	0	0
US Sup Ct	1	0	0	0	1

	Louisville	Lexington	Total
Cases Assigned	66	46	112

Total Cases Assigned	CA	SC	Fed Habeas Cases	Lexington & Louisville	Total
	207	121	3	112	443

[illegible]

Each Circle = 1 Unit
Circles for max data value = 22

Juvenile Post Disposition Branch Juvenile Appeals Caseload

Cases Assigned, By Quarter, FY 2006

Type of Case		1Q	2Q	3Q	4Q	Total
Original Action	Circuit Court	2	0	0	0	2
	Court of Appeals	0	1	0	0	1
	Supreme Court	0	0	0	0	0
	Federal Court	1	0	0	1	2
Public Offender Appeal	Circuit Court	8	5	11	7	31
	Court of Appeals	1	0	1	0	2
	Supreme Court	0	0	1	1	2
	Federal Court	0	0	0	0	0
Family Court Appeal	Circuit Court	0	0	0	0	0
	Court of Appeals	0	2	2	1	5
	Supreme Court	0	0	0	0	0
	Federal Court	0	0	0	0	0
Youthful Offender Appeal	Circuit Court	0	0	0	0	0
	Court of Appeals	0	1	1	0	2
	Supreme Court	1	0	0	2	3
	Federal Court	0	0	0	0	0
Adult Appeal	Circuit Court	0	0	0	0	0
	Court of Appeals	0	0	0	0	0
	Supreme Court	0	0	0	1	1
	Federal Court	0	0	0	0	0
Total		13	9	16	13	51

Documents Filed and Hearings Attended, FY 2006

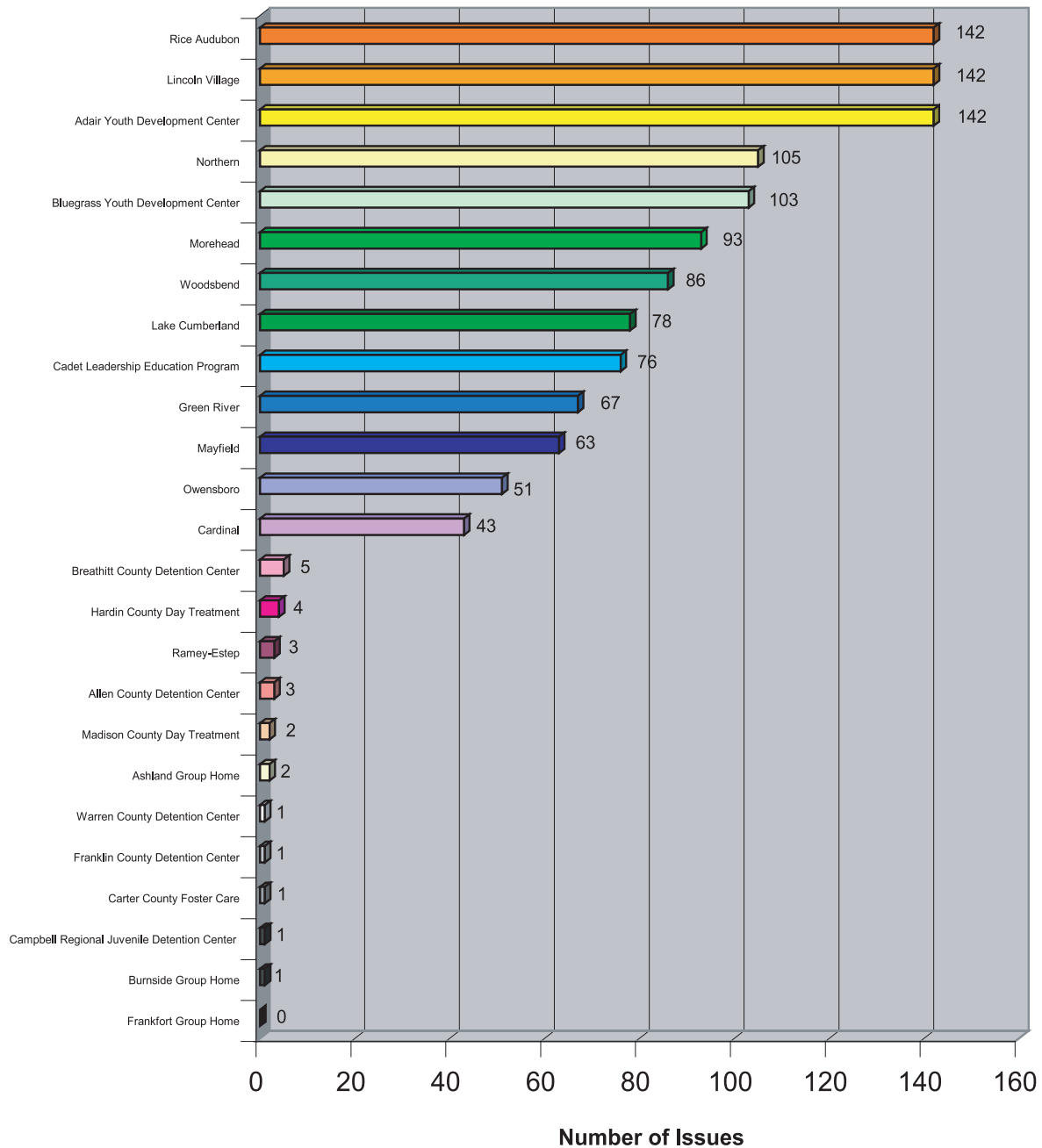
	1Q	2Q	3Q	4Q	Total
Original Actions Filed	5	1	3	1	10
State Habeas Corpus Actions Filed	0	3	0	1	4
Federal Habeas Corpus Actions Filed	1	0	0	1	2
11.42s Filed	4	2	0	1	7
610.120 Motions Filed	8	6	4	5	23
Motions for Belated Appeal Filed	0	0	0	1	1
Cases Resolved By Agreed Order, Without Filing One of the Above Listed Motions	2	3	4	4	13
YO Sentencing Related Motions Filed	0	3	1	1	5
Alternative Sentencing Plans Filed	0	2	2	4	8
Other Motions Filed	18	9	35	30	92
PC Evidentiary Hearings Held	5	2	2	0	9
Sentencing Hearings Held	1	1	0	2	4
Other Non-SPR Hearings Held	17	11	17	12	57
Number of Claims Administratively Resolved	41	18	17	2	78
Supervised Placement Revocation Cases	13	12	6	15	46
Total	115	73	91	80	359

FY 2006 New Juvenile Claim by Institution

Institution	Fact	Duration	Conditions	Total
Adair Youth Development Center	69	46	27	142
Allen County Detention Center	1	2	0	3
Ashland Group Home	0	2	0	2
Bluegrass Youth Development Center	47	39	17	103
Breathitt County Detention Center	3	1	1	5
Burnside Group Home	0	1	0	1
Cadet Leadership Education Program	62	8	6	76
Campbell Regional Juvenile Detention Center	1	0	0	1
Cardinal	23	15	5	43
Carter County Foster Care	0	1	0	1
Frankfort Group Home	0	0	0	0
Franklin County Detention Center	1	0	0	1
Green River	48	13	6	67
Hardin County Day Treatment	4	0	0	4
Lake Cumberland	60	8	10	78
Lincoln Village	80	45	17	142
Madison County Day Treatment	1	1	0	2
Mayfield	42	12	9	63
Morehead	41	31	21	93
Northern	57	27	21	105
Owensboro	33	10	8	51
Ramey-Estep	2	0	1	3
Rice Audubon	86	31	25	142
Warren County Detention Center	0	0	1	1
Woodsbend	67	14	5	86
TOTALS	728	307	180	1215

FY 2006 New Juvenile Claims by Institution

31



Post-Conviction Branch

FY 2006 Non-Capital Caseload

Quarterly / YTD Report, July 1, 2005 - June 30, 2006, *cases handled in-house and of-counsel

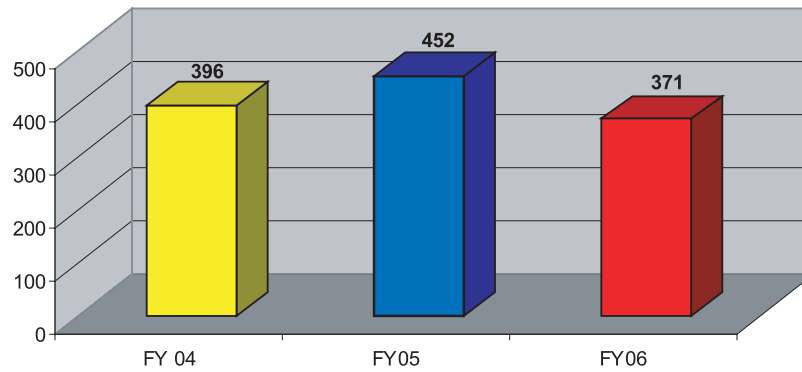
Actions	Qtr 1			Qtr 2			Qtr 3			Qtr 4			YTD Totals		
	Term of Yrs	LWOP	Total	Term of Yrs	LWOP	Total	Term of Yrs	LWOP	Total	Term of Yrs	LWOP	Total	Term of Yrs	LWOP	Total
RCR 11. 42- Court appointed	32	1	34	41	0	41	38	0	38	28	0	28	139	1	141
RCR 11. 42- Branch appointed	0	0	0	2	0	2	10	0	10	0	0	0	12	0	12
60.02- Court appointed	3	0	4	5	0	5	6	1	7	4	0	4	18	1	21
60.02- Branch appointed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ct Apmt review/ withdrawal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
State Habeas filed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Federal Habeas Opened	1	0	1	0	0	0	1	0	1	1	0	1	3	0	3
Ct of App. Cases Opened	4	0	4	7	0	7	9	0	9	4	0	4	24	0	24
Ky SCt Cases Opened	2	0	2	0	0	0	1	0	1	0	0	0	3	0	3
6th Circuit Cases Opened	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non Capital Clemency	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
31.110 App Reviews	50	0	50	49	0	49	38	0	38	34	0	34	171	0	171
COA's denied	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
KIP cases assigned to PC*	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cert Petitions	1		1	0	0	0	0	0	0	0	0	0	1	0	1
Totals	93	1	96	104	0	104	103	1	105	71	0	71	371	2	376
Pending KIP - assigned to PC*			1										1		1
Pending Cases			324			333			376			348			348
Pending Appeals			73			81			87			79			79
Totals	0	0	398	0	0	414	0	0	463	0	0	427	1	0	428

* Cases actually assigned to Post Conviction Unit B or LaGrange attorneys.

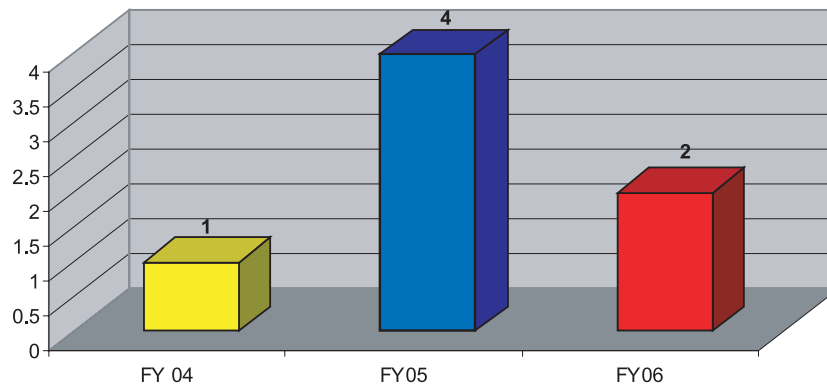
FY 2004-2006 Non-Capital Caseload Comparison

33

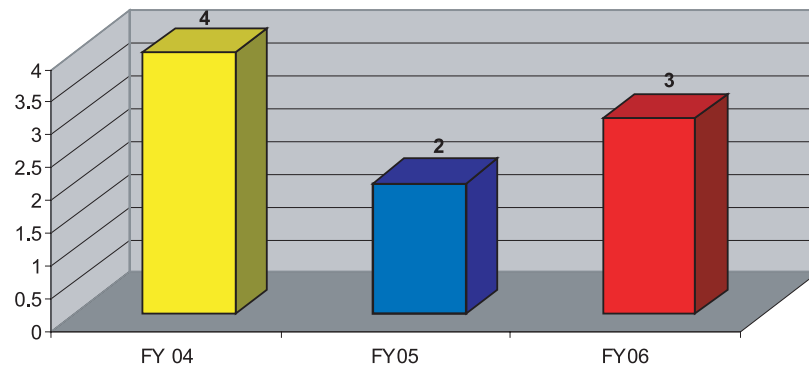
Term of Yrs



LWOP



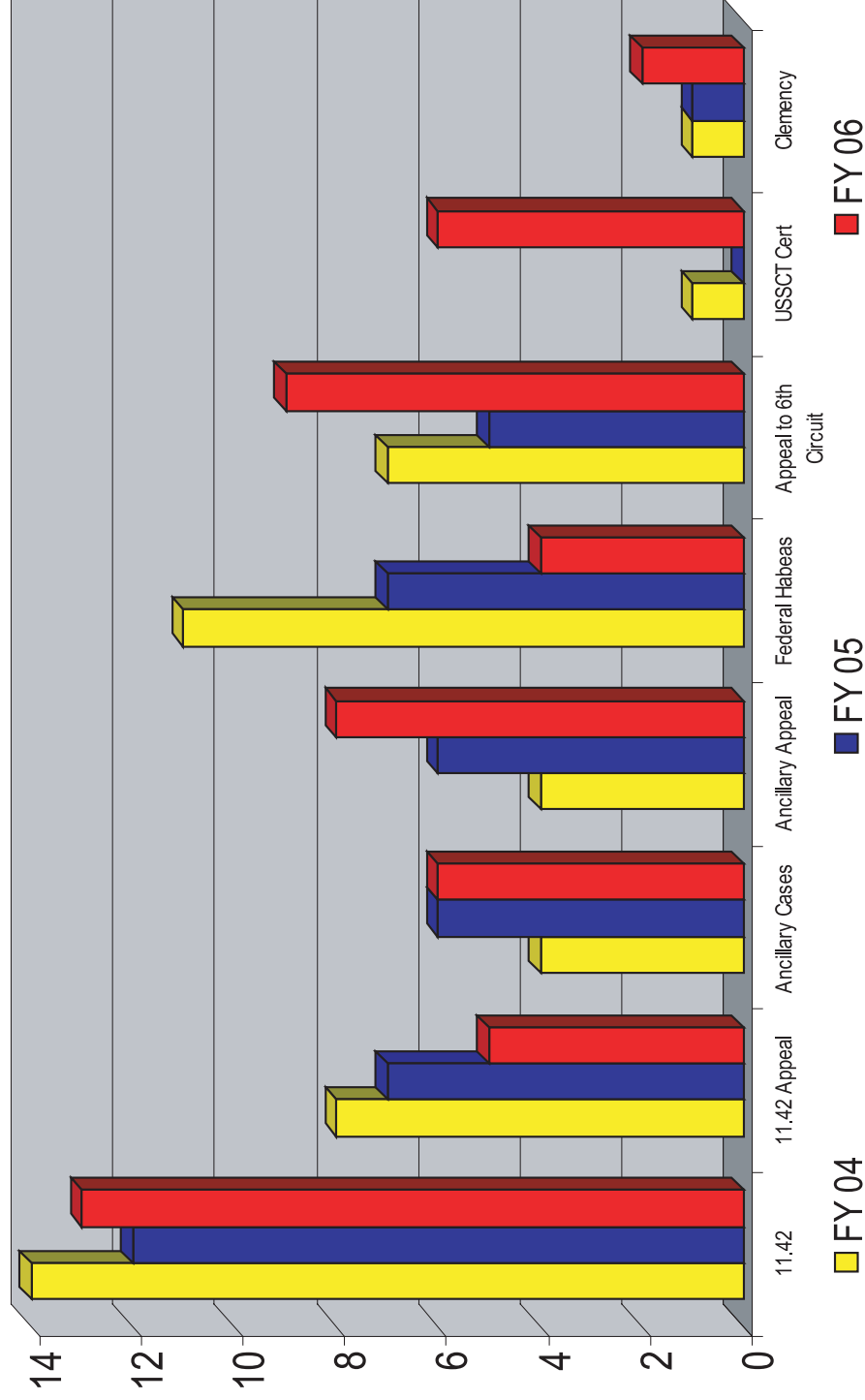
LWOP 25



FY 2006 Capital Caseload

Action	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Year to Date			
	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL	OPEN	PENDING	CLOSED	TOTAL
11.42	0	12	12	1	12	13	1	12	13	0	13	13	2	13	1	13
11.42 Appeal	0	7	7	0	6	6	1	5	6	0	5	5	1	5	3	5
Ancillary Cases	1	6	7	0	5	5	1	5	6	2	4	6	4	4	4	6
Ancillary Appeal	1	6	7	3	4	7	1	6	7	2	6	8	7	6	5	8
Federal Habeas	0	7	7	2	7	9	0	8	8	1	8	9	3	8	1	9
Appeal to 6th Circuit	0	5	5	0	5	5	1	5	6	0	6	6	1	6	0	6
USSCT Cert	1	0	1	4	0	4	1	1	2	3	1	4	9	1	5	4
Clemency	0	2	2	0	2	2	0	2	2	0	2	2	0	2	0	2
TOTALS	3	45	48	10	41	51	6	44	50	8	45	53	27	45	19	53

FY 04 – FY 06 Capital Caseload Comparison



Post Conviction Branch Client Intake

Each year, the Post Conviction Branch spends time at correctional facilities in Kentucky interviewing inmates with potential legal complaints. These interviews take significant time to hear and prepare a response to the client. DPA is able to accept less than 10% of these incarcerated persons as clients. Only the accepted clients are counted as cases in the DPA Post Trial case count.

Office	# Clients Served from Intake				
	Q1	Q2	Q3	Q4	YTD
Frankfort	43	49	44	13	149
KSR	64	36	101	62	263
TOTALS	107	85	145	75	412

Action	Kentucky Innocence Project				
	Q1	Q2	Q3	Q4	YTD
Cases Reviewed	45	15	20	54	134
**Cases Selected	15	0	0	0	15
Carry Over/Pending	4	0	0	0	4



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